

REFERENCE TITLE: credit; stub outs; outlets; repeal

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2399

Introduced by
Representatives Yarbrough: Murphy

AN ACT

REPEALING SECTIONS 43-1090 AND 43-1176, ARIZONA REVISED STATUTES; AMENDING SECTIONS 43-222, 43-1021, 43-1022, 43-1083 AND 43-1121, ARIZONA REVISED STATUTES; RELATING TO INCOME TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Sections ~~43-1090~~ and ~~43-1176~~, Arizona Revised Statutes, are repealed.

4 Sec. 2. Section 43-222, Arizona Revised Statutes, is amended to read:

5 ~~43-222.~~ Income tax credit review schedule

6 Each year the joint legislative income tax credit review committee
7 shall review the following income tax credits:

8 1. In 2006, sections 43-1073, 43-1089, 43-1089.01, 43-1089.02,
9 ~~43-1090, 43-1176~~ and 43-1181.

10 2. In 2007, sections 43-1077, 43-1078, 43-1079, 43-1080, 43-1165,
11 43-1166, 43-1167 and 43-1169.

12 3. In 2008, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and
13 43-1178.

14 4. In 2009, sections 43-1076, 43-1081.01, 43-1084, 43-1162 and
15 43-1170.01.

16 5. In 2010, sections 43-1075, 43-1079.01, 43-1087, 43-1088,
17 43-1090.01, 43-1163, 43-1167.01, 43-1175 and 43-1182.

18 6. In 2011, sections 43-1074.02, 43-1083, 43-1085, ~~and~~ 43-1164 and
19 43-1183.

20 Sec. 3. Section 43-1021, Arizona Revised Statutes, is amended to read:

21 ~~43-1021.~~ Additions to Arizona gross income

22 In computing Arizona adjusted gross income, the following amounts shall
23 be added to Arizona gross income:

24 1. A beneficiary's share of the fiduciary adjustment to the extent
25 that the amount determined by section 43-1333 increases the beneficiary's
26 Arizona gross income.

27 2. An amount equal to the "ordinary income portion" of a lump sum
28 distribution that was excluded from federal adjusted gross income pursuant to
29 section 402(d) of the internal revenue code.

30 3. The amount of interest income received on obligations of any state,
31 territory or possession of the United States, or any political subdivision
32 thereof, located outside the state of Arizona, reduced, for tax years
33 beginning from and after December 31, 1996, by the amount of any interest on
34 indebtedness and other related expenses that were incurred or continued to
35 purchase or carry those obligations and that are not otherwise deducted or
36 subtracted in arriving at Arizona gross income.

37 4. Annuity income received during the taxable year to the extent that
38 the sum of the proceeds received from such annuity in all taxable years prior
39 to and including the current taxable year exceeds the total consideration and
40 premiums paid by the taxpayer. This paragraph applies only to those
41 annuities with respect to which the first payment was received prior to
42 December 31, 1978.

43 5. The excess of a partner's share of partnership taxable income
44 required to be included under chapter 14, article 2 of this title over the

1 income required to be reported under section 702(a)(8) of the internal
2 revenue code.

3 6. The excess of a partner's share of partnership losses determined
4 pursuant to section 702(a)(8) of the internal revenue code over the losses
5 allowable under chapter 14, article 2 of this title.

6 7. The amount by which the adjusted basis of property described in
7 this paragraph and computed pursuant to the internal revenue code exceeds the
8 adjusted basis of such property computed pursuant to this title and the
9 income tax act of 1954, as amended. This paragraph shall apply to all
10 property which is held for the production of income and which is sold or
11 otherwise disposed of during the taxable year, except depreciable property
12 used in a trade or business.

13 8. The amount of depreciation or amortization of costs of any capital
14 investment that is deducted pursuant to section 167 or 179 of the internal
15 revenue code by a qualified defense contractor with respect to which an
16 election is made to amortize pursuant to section 43-1024.

17 9. The amount of gain from the sale or other disposition of a capital
18 investment which a qualified defense contractor has elected to amortize
19 pursuant to section 43-1024.

20 10. Amounts withdrawn from the Arizona state retirement system, the
21 corrections officer retirement plan, the public safety personnel retirement
22 system, the elected officials' retirement plan or a county or city retirement
23 plan by an employee upon termination of employment before retirement to the
24 extent they were deducted in arriving at Arizona taxable income in any year.

25 11. That portion of the net operating loss included in federal adjusted
26 gross income which has already been taken as a net operating loss for Arizona
27 purposes or which is separately taken as a subtraction under the special net
28 operating loss transition rule.

29 12. Any nonitemized amount deducted pursuant to section 170 of the
30 internal revenue code representing contributions to an educational
31 institution which denies admission, enrollment or board and room
32 accommodations on the basis of race, color or ethnic background except those
33 institutions primarily established for the education of American Indians.

34 13. The amount paid as taxes on property in this state with respect to
35 which a credit is claimed under section 43-1078.

36 14. Amounts withdrawn from a medical savings account by the individual
37 during the taxable year computed pursuant to section 220(f) of the internal
38 revenue code and not included in federal adjusted gross income.

39 15. Any amount of agricultural water conservation expenses that were
40 deducted pursuant to the internal revenue code for which a credit is claimed
41 under section 43-1084.

42 16. The amount by which the depreciation or amortization computed under
43 the internal revenue code with respect to property for which a credit was
44 taken under section 43-1080 exceeds the amount of depreciation or

1 amortization computed pursuant to the internal revenue code on the Arizona
2 adjusted basis of the property.

3 17. The amount by which the adjusted basis computed under the internal
4 revenue code with respect to property for which a credit was claimed under
5 section 43-1080 and which is sold or otherwise disposed of during the taxable
6 year exceeds the adjusted basis of the property computed under section
7 43-1080.

8 18. The amount by which the depreciation or amortization computed under
9 the internal revenue code with respect to property for which a credit was
10 taken under either section 43-1081 or 43-1081.01 exceeds the amount of
11 depreciation or amortization computed pursuant to the internal revenue code
12 on the Arizona adjusted basis of the property.

13 19. The amount by which the adjusted basis computed under the internal
14 revenue code with respect to property for which a credit was claimed under
15 section 43-1074.02, 43-1081 or 43-1081.01 and which is sold or otherwise
16 disposed of during the taxable year exceeds the adjusted basis of the
17 property computed under section 43-1074.02, 43-1081 or 43-1081.01, as
18 applicable.

19 20. The deduction referred to in section 1341(a)(4) of the internal
20 revenue code for restoration of a substantial amount held under a claim of
21 right.

22 21. The amount by which a net operating loss carryover or capital loss
23 carryover allowable pursuant to section 1341(b)(5) of the internal revenue
24 code exceeds the net operating loss carryover or capital loss carryover
25 allowable pursuant to section 43-1029, subsection F.

26 22. Any amount deducted pursuant to section 170 of the internal revenue
27 code representing contributions to a school tuition organization or a public
28 school for which a credit is claimed under section 43-1089 or 43-1089.01.

29 ~~23. Any amount deducted in computing Arizona gross income as expenses~~
30 ~~for installing solar stub outs or electric vehicle recharge outlets in this~~
31 ~~state with respect to which a credit is claimed pursuant to section 43-1090.~~

32 ~~24.~~ 23. Any wage expenses deducted pursuant to the internal revenue
33 code for which a credit is claimed under section 43-1087 and representing net
34 increases in qualified employment positions for employment of temporary
35 assistance for needy families recipients.

36 ~~25.~~ 24. Any amount deducted for conveying ownership or development
37 rights of property to an agricultural preservation district under section
38 48-5702 for which a credit is claimed under section 43-1081.02.

39 ~~26.~~ 25. The amount of any depreciation allowance allowed pursuant to
40 section 167(a) of the internal revenue code to the extent not previously
41 added.

42 ~~27.~~ 26. With respect to property for which an expense deduction was
43 taken pursuant to section 179 of the internal revenue code, the amount in
44 excess of twenty-five thousand dollars.

~~28-~~ 27. The amount of any deductions that are claimed in computing federal adjusted gross income representing expenses for which a credit is claimed under section 43-1075.

~~29-~~ 28. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under section 43-1090.01 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

~~30-~~ 29. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1090.01 and which is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1090.01.

Sec. 4. Section 43-1022, Arizona Revised Statutes, is amended to read:

43-1022. Subtractions from Arizona gross income

In computing Arizona adjusted gross income, the following amounts shall be subtracted from Arizona gross income:

1. The amount of exemptions allowed by section 43-1023.

2. Benefits, annuities and pensions in an amount totaling not more than two thousand five hundred dollars received from one or more of the following:

(a) The United States government service retirement and disability fund, retired or retainer pay of the uniformed services of the United States, the United States foreign service retirement and disability system and any other retirement system or plan established by federal law.

(b) The Arizona state retirement system, the corrections officer retirement plan, the public safety personnel retirement system, the elected officials' retirement plan, an optional retirement program established by the Arizona board of regents under section 15-1628, an optional retirement program established by a community college district board under section 15-1451 or a retirement plan established for employees of a county, city or town in this state.

3. A beneficiary's share of the fiduciary adjustment to the extent that the amount determined by section 43-1333 decreases the beneficiary's Arizona gross income.

4. The amount of any distributions from an individual retirement account as provided for in section 408 of the internal revenue code or from a qualified retirement plan of a self-employed individual as provided for in section 401 of the internal revenue code to the extent that total adjustments made pursuant to this paragraph in all tax years do not exceed the total of all contributions made by the taxpayer to such plans prior to December 31, 1975, which were included in computing Arizona taxable income.

5. The amount of income on an installment receivable which is recognized pursuant to the internal revenue code and which has already been

1 recognized on the death of the taxpayer for purposes of this title for tax
2 years ending before January 1, 1990.

3 6. Interest income received on obligations of the United States, less
4 any interest on indebtedness, or other related expenses, and deducted in
5 arriving at Arizona gross income, which were incurred or continued to
6 purchase or carry such obligations.

7 7. The amount of any income tax refunds which were received from
8 states other than Arizona and which were included as income in computing
9 federal adjusted gross income.

10 8. Annuity income included in federal adjusted gross income pursuant
11 to section 72 of the internal revenue code if the first payment with respect
12 to such annuity was received prior to December 31, 1978.

13 9. The excess of a partner's share of income required to be included
14 under section 702(a)(8) of the internal revenue code over the income required
15 to be included under chapter 14, article 2 of this title.

16 10. The excess of a partner's share of partnership losses determined
17 pursuant to chapter 14, article 2 of this title over the losses allowable
18 under section 702(a)(8) of the internal revenue code.

19 11. The amount by which the adjusted basis of property described in
20 this paragraph and computed pursuant to this title and the income tax act of
21 1954, as amended, exceeds the adjusted basis of such property computed
22 pursuant to the internal revenue code. This paragraph shall apply to all
23 property which is held for the production of income and which is sold or
24 otherwise disposed of during the taxable year other than depreciable property
25 used in a trade or business.

26 12. The amount allowed by section 43-1024 for amortization, by a
27 qualified defense contractor certified by the department of commerce under
28 section 41-1508, of a capital investment for private commercial activities.

29 13. The amount of gain included in federal adjusted gross income on the
30 sale or other disposition of a capital investment that a qualified defense
31 contractor has elected to amortize pursuant to section 43-1024.

32 14. The amount allowed by section 43-1025 for contributions during the
33 taxable year of agricultural crops to charitable organizations.

34 15. The portion of any wages or salaries paid or incurred by the
35 taxpayer for the taxable year that is equal to the amount of the federal work
36 opportunity credit, the empowerment zone employment credit, the credit for
37 employer paid social security taxes on employee cash tips and the Indian
38 employment credit that the taxpayer received under sections 45A, 45B, 51(a)
39 and 1396 of the internal revenue code.

40 16. The amount of prizes or winnings less than five thousand dollars in
41 a single taxable year from any of the state lotteries established and
42 operated pursuant to title 5, chapter 5, article 1, except that all such
43 winnings before March 22, 1983, including periodic distributions from such
44 winnings made after March 22, 1983, may be subtracted.

1 17. The amount of exploration expenses that is determined pursuant to
2 section 617 of the internal revenue code, that has been deferred in a taxable
3 year ending before January 1, 1990 and for which a subtraction has not
4 previously been made. The subtraction shall be made on a ratable basis as
5 the units of produced ores or minerals discovered or explored as a result of
6 this exploration are sold.

7 18. The amount included in federal adjusted gross income pursuant to
8 section 86 of the internal revenue code, relating to taxation of social
9 security and railroad retirement benefits.

10 19. To the extent not already excluded from Arizona gross income under
11 the internal revenue code, compensation received for active service as a
12 member of the reserves, THE national guard or the armed forces of the United
13 States, including compensation for service in a combat zone as determined
14 under section 112 of the internal revenue code.

15 20. The amount of unreimbursed medical and hospital costs, adoption
16 counseling, legal and agency fees and other nonrecurring costs of adoption
17 not to exceed three thousand dollars. In the case of a husband and wife who
18 file separate returns, the subtraction may be taken by either taxpayer or may
19 be divided between them, but the total subtractions allowed both husband and
20 wife shall not exceed three thousand dollars. The subtraction under this
21 paragraph may be taken for the costs that are described in this paragraph and
22 that are incurred in prior years, but the subtraction may be taken only in
23 the year during which the final adoption order is granted.

24 21. The amount authorized by section 43-1027 for the taxable year
25 relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

26 22. With respect to a medical savings account established pursuant to
27 section 43-1028:

28 (a) An eligible individual may subtract:

29 (i) The amount of contributions made by the individual's employer
30 during the taxable year to the individual's medical savings account pursuant
31 to section 43-1028 to the extent that the employer contributions are included
32 in the individual's federal adjusted gross income.

33 (ii) The amount deposited by the individual in the account during the
34 taxable year to the extent that the individual's contributions are included
35 in the individual's federal adjusted gross income.

36 (b) The individual's employer may subtract the amount of contributions
37 made by the employer to a medical savings account established on the
38 individual's behalf to the extent that the contributions are not deductible
39 under the internal revenue code.

40 23. The amount by which a net operating loss carryover or capital loss
41 carryover allowable pursuant to section 43-1029, subsection F exceeds the net
42 operating loss carryover or capital loss carryover allowable pursuant to
43 section 1341(b)(5) of the internal revenue code.

44 24. Any amount of qualified educational expenses that is distributed
45 from a qualified state tuition program determined pursuant to section 529 of

1 the internal revenue code and that is included in income in computing federal
2 adjusted gross income.

3 25. Any item of income resulting from an installment sale that has been
4 properly subjected to income tax in another state in a previous taxable year
5 and that is included in Arizona gross income in the current taxable year.

6 26. The amount authorized by section 43-1030 relating to holocaust
7 survivors.

8 27. The amount authorized by section 43-1031 for constructing an energy
9 efficient residence.

10 28. An amount equal to the depreciation allowable pursuant to section
11 167(a) of the internal revenue code for the taxable year computed as if the
12 election described in section 168(k)(2)(D)(iii) of the internal revenue code
13 had been made for each applicable class of property in the year the property
14 was placed in service.

15 29. With respect to property that is sold or otherwise disposed of
16 during the taxable year by a taxpayer that complied with section 43-1021,
17 paragraph ~~26~~ 25 with respect to that property, the amount of depreciation
18 that has been allowed pursuant to section 167(a) of the internal revenue code
19 to the extent that the amount has not already reduced Arizona taxable income
20 in the current or prior taxable years.

21 30. With respect to property for which an adjustment was made under
22 section 43-1021, paragraph ~~27~~ 26, an amount equal to one-fifth of the amount
23 of the adjustment pursuant to section 43-1021, paragraph ~~27~~ 26 in the year in
24 which the amount was adjusted under section 43-1021, paragraph ~~27~~ 26 and in
25 each of the following four years.

26 Sec. 5. Section 43-1083, Arizona Revised Statutes, is amended to read:
27 43-1083. Credit for solar energy devices

28 A. A credit is allowed against the taxes imposed by this title for
29 each resident who is not a dependent of another taxpayer for installing a
30 solar energy device, as defined in section 42-5001, during the taxable year
31 in the taxpayer's residence located in this state. The credit is equal to
32 twenty-five per cent of the cost of the device.

33 B. The maximum credit in a taxable year may not exceed one thousand
34 dollars. The person who provides the solar energy device shall furnish the
35 taxpayer with an accounting of the cost to the taxpayer. A taxpayer may
36 claim the credit under this section only once in a tax year and may not
37 cumulate over different tax years tax credits under this section exceeding,
38 in the aggregate, one thousand dollars for the same residence.

39 C. If the allowable tax credit exceeds the taxes otherwise due under
40 this title on the claimant's income, or if there are no taxes due under this
41 title, the amount of the claim not used to offset taxes under this title may
42 be carried forward for not more than five consecutive taxable years as a
43 credit against subsequent years' income tax liability.

1 D. A husband and wife who file separate returns for a taxable year in
2 which they could have filed a joint return may each claim only one-half of
3 the tax credit that would have been allowed for a joint return.

4 E. The credit allowed under this section is in lieu of any allowance
5 for state tax purposes for exhaustion, ~~AND~~ wear and tear of the solar energy
6 device under section 167 of the internal revenue code.

7 F. To qualify for the credit under this section the solar energy
8 device and its installation shall meet the requirements of title 44, chapter
9 11, article 11.

10 G. A solar hot water heater plumbing stub out that was installed by
11 the builder of a house or dwelling unit before title was conveyed to the
12 taxpayer does not qualify for a credit under this section. ~~, but the taxpayer~~
13 ~~may claim a credit for the device under section 43-1090 or 43-1176 under the~~
14 ~~circumstances, conditions and limitations prescribed by section 43-1090,~~
15 ~~subsection C or 43-1176, subsection C, as applicable.~~

16 Sec. 6. Section 43-1121, Arizona Revised Statutes, is amended to read:

17 43-1121. Additions to Arizona gross income; corporations

18 In computing Arizona taxable income for a corporation, the following
19 amounts shall be added to Arizona gross income:

20 1. The amounts computed pursuant to section 43-1021, paragraphs 3
21 through 9, 12, ~~26 and 27~~ 25 AND 26.

22 2. The amount of dividend income received from corporations and
23 allowed as a deduction pursuant to sections 243, 244 and 245 of the internal
24 revenue code.

25 3. Taxes which are based on income paid to states, local governments
26 or foreign governments and which were deducted in computing federal taxable
27 income.

28 4. Expenses and interest relating to tax-exempt income on indebtedness
29 incurred or continued to purchase or carry obligations the interest on which
30 is wholly exempt from the tax imposed by this title. Financial institutions,
31 as defined in section 6-101, shall be governed by section 43-961,
32 paragraph 2.

33 5. Commissions, rentals and other amounts paid or accrued to a
34 domestic international sales corporation controlled by the payor corporation
35 if the domestic international sales corporation is not required to report its
36 taxable income to this state because its income is not derived from or
37 attributable to sources within this state. If the domestic international
38 sales corporation is subject to article 4 of this chapter, the department
39 shall prescribe by rule the method of determining the portion of the
40 commissions, rentals and other amounts which are paid or accrued to the
41 controlled domestic international sales corporation and which shall be
42 deducted by the payor. "Control" for purposes of this paragraph means direct
43 or indirect ownership or control of fifty per cent or more of the voting
44 stock of the domestic international sales corporation by the payor
45 corporation.

1 6. Federal income tax refunds received during the taxable year to the
2 extent they were deducted in arriving at Arizona taxable income in a previous
3 year.

4 7. The amount of net operating loss taken pursuant to section 172 of
5 the internal revenue code.

6 8. The amount of exploration expenses determined pursuant to section
7 617 of the internal revenue code to the extent that they exceed seventy-five
8 thousand dollars and to the extent that the election is made to defer those
9 expenses not in excess of seventy-five thousand dollars.

10 9. Amortization of costs incurred to install pollution control devices
11 and deducted pursuant to the internal revenue code or the amount of deduction
12 for depreciation taken pursuant to the internal revenue code on pollution
13 control devices for which an election is made pursuant to section 43-1129.

14 10. The amount of depreciation or amortization of costs of child care
15 facilities deducted pursuant to section 167 or 188 of the internal revenue
16 code for which an election is made to amortize pursuant to section 43-1130.

17 11. Arizona state income tax refunds received, to the extent the amount
18 of the refunds is not already included in Arizona gross income, if a tax
19 benefit was derived by deduction of this amount in a prior year.

20 12. The amount paid as taxes on property in this state by a qualified
21 defense contractor with respect to which a credit is claimed under section
22 43-1166.

23 13. The loss of an insurance company that is exempt under section
24 43-1201 to the extent that it is included in computing Arizona gross income
25 on a consolidated return pursuant to section 43-947.

26 14. The amount by which the depreciation or amortization computed under
27 the internal revenue code with respect to property for which a credit was
28 taken under section 43-1169 exceeds the amount of depreciation or
29 amortization computed pursuant to the internal revenue code on the Arizona
30 adjusted basis of the property.

31 15. The amount by which the adjusted basis computed under the internal
32 revenue code with respect to property for which a credit was claimed under
33 section 43-1169 and which is sold or otherwise disposed of during the taxable
34 year exceeds the adjusted basis of the property computed under section
35 43-1169.

36 16. The amount by which the depreciation or amortization computed under
37 the internal revenue code with respect to property for which a credit was
38 taken under either section 43-1170 or 43-1170.01 exceeds the amount of
39 depreciation or amortization computed pursuant to the internal revenue code
40 on the Arizona adjusted basis of the property.

41 17. The amount by which the adjusted basis computed under the internal
42 revenue code with respect to property for which a credit was claimed under
43 either section 43-1170 or 43-1170.01 and which is sold or otherwise disposed
44 of during the taxable year exceeds the adjusted basis of the property
45 computed under section 43-1170 or 43-1170.01, as applicable.

18. The deduction referred to in section 1341(a)(4) of the internal revenue code for restoration of a substantial amount held under a claim of right.

19. The amount by which a capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code exceeds the capital loss carryover allowable pursuant to section 43-1130.01, subsection F.

~~20. Any amount deducted in computing Arizona taxable income as expenses for installing solar stub outs or electric vehicle recharge outlets in this state with respect to which a credit is claimed pursuant to section 43-1176.~~

~~21.~~ 20. Any wage expenses deducted pursuant to the internal revenue code for which a credit is claimed under section 43-1175 and representing net increases in qualified employment positions for employment of temporary assistance for needy families recipients.

~~22.~~ 21. Any amount of expenses that were deducted pursuant to the internal revenue code and for which a credit is claimed under section 43-1178.

~~23.~~ 22. Any amount deducted for conveying ownership or development rights of property to an agricultural preservation district under section 48-5702 for which a credit is claimed under section 43-1180.

~~24.~~ 23. The amount of any deduction that is claimed in computing Arizona gross income and that represents a donation of a school site for which a credit is claimed under section 43-1181.

~~25.~~ 24. The amount of any deductions that are claimed in computing federal taxable income representing expenses for which a credit is claimed under section 43-1163.

~~26.~~ 25. Any amount deducted in computing Arizona taxable income as expenses for installing water conservation system plumbing stub outs in this state with respect to which a credit is claimed pursuant to section 43-1182.

~~27.~~ 26. Any amount deducted pursuant to section 170 of the internal revenue code representing contributions to a school tuition organization for which a credit is claimed under section 43-1183.

Sec. 7. Requirements for enactment; two-thirds vote

Pursuant to article IX, section 22, Constitution of Arizona, this act is effective only on the affirmative vote of at least two-thirds of the members of each house of the legislature and is effective immediately on the signature of the governor or, if the governor vetoes this act, on the subsequent affirmative vote of at least three-fourths of the members of each house of the legislature.